

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA, Case No. 5:03cr387  
Plaintiff, Akron, Ohio  
Wednesday, November 9, 2016

vs.

ERIC V. BARTOLI,  
Defendant.

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE JOHN R. ADAMS  
UNITED STATES DISTRICT JUDGE

SENTENCING HEARING

APPEARANCES:

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20 Proceedings recorded by mechanical stenography, transcript  
21 produced by computer-aided transcription.  
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1 P R O C E E D I N G S

2 - - -

3 THE COURT: For the record, the court has before  
4 it today Case Number 5:03cr387-001. The case is United  
10:46:27 5 States of America versus Eric Bartoli. We're here today for  
6 sentencing.

7 Counsel for the government, are you ready to  
8 proceed?

9 MR. GEORGALIS: Yes, Judge. Chris Georgalis on  
10:46:36 10 behalf of the United States. Seated to my left is AUSA Tony  
11 Bacon, as well as IRS Agent Michelle Burmeister, as well as  
12 Special Agent Gary Sukowatey with the FBI.

13 THE COURT: Thank you, Counsel.

14 On behalf of the defendant?

10:46:48 15 MR. WARD: Good morning, Your Honor. Attorney  
16 Barry Ward and Attorney Jack Sammon on behalf of the  
17 defendant, Eric Bartoli.

18 We are ready to proceed, sir.

19 THE COURT: Thank you.

10:46:56 20 Mr. Bartoli, did you go over and review the  
21 presentence report that was prepared to assist me in  
22 deciding your sentence in this case?

23 THE DEFENDANT: Yes.

24 THE COURT: Have you discussed it in full with  
10:47:05 25 your attorneys?

1 THE DEFENDANT: Yes.

2 THE COURT: Counsel, did you go over the report  
3 and review it with your client?

4 MR. WARD: I would indicate for the record, Your  
10:47:11 5 Honor, we've done so on many occasions as recently as  
6 yesterday afternoon.

7 THE COURT: Thank you.

8 It appears there are no unresolved objections that  
9 had been filed, and the court addressed the guideline  
10:47:23 10 calculation, as I've indicated. Even though the guideline  
11 calculation as recommended by the parties is higher than  
12 that recommended by the probation department, the court will  
13 use the guideline calculation in this matter as the  
14 benchmark, as the starting point.

10:47:40 15 Is there any other objections either side wishes  
16 to raise at this time, on behalf of the government?

17 MR. GEORGALIS: No further objections, Judge.  
18 Thank you.

19 MR. WARD: Not on behalf of the defendant.

10:47:48 20 THE COURT: Thank you. It's my understanding that  
21 we have a number of victims who wish to be heard.

22 Counsel for the government, are the victims  
23 available who wish to come forward?

24 MR. GEORGALIS: Yes, Judge. There are victims  
10:48:01 25 that are here and would like to be heard.

1 Judge, there are seven victims to my knowledge  
2 that would like to speak to the court directly, and there  
3 are also two letters that the victims have asked that the  
4 government read into open court if that's okay.

10:48:12 5 THE COURT: All right. Go ahead. I'm sorry.

6 MR. GEORGALIS: We're ready to begin with the  
7 victims, whenever you are.

8 THE COURT: Bring each one forward.

9 Ladies and gentlemen, I would ask when you step  
10:48:22 10 forward, please come to the podium. You need to use the  
11 microphone so you can be heard by all the participants in  
12 the proceeding. Also you will need to state your full name  
13 and please spell your last name for the benefit of the court  
14 reporter, as there is a record being kept.

10:48:37 15 We may begin at this time with the victims,  
16 please.

17 MR. GEORGALIS: In alphabetical order, first being  
18 Patricia Besselman.

19 MS. BESSELMAN: Hello, Your Honor.

10:49:02 20 My name is Patricia Besselman, B-E-S-S-E-L-M-A-N.

21 Your Honor, I would like to address my comments to  
22 Eric Bartoli.

23 Mr. Bartoli, you knowingly stole money from people  
24 that trusted you and trusted your representatives, Binge  
10:49:25 25 Esposito and Shisler. And some investments were

1 individuals' entire savings, thus leaving the victims with  
2 no means of income to support their livelihood.

3 THE COURT: If I can interrupt you, please look at  
4 me and use the microphone. He will be able to hear you.

10:49:41 5 All right. If you turn away, it's difficult. You are away  
6 from the microphone and the court reporter and I can't hear  
7 you.

8 MS. BESSELMAN: All right. But you did not care.  
9 You took our money to live a life of luxury and had no  
10:49:54 10 regard for the hardship that your victims would endure.

11 During the first meeting in 1999, people were  
12 stunned, shocked, and in disbelief that their money was  
13 gone. There were people that would have no money to make  
14 their house payment, buy food or buy medications.

10:50:12 15 One man invested his life savings to help support  
16 his wife. You see he was ill and didn't have long to live  
17 and needed that money to support her. You took his peace of  
18 mind from him, as well as his money. This is only one of  
19 many examples of harm that you caused.

10:50:29 20 Your victims, retirees, nurses, farmers, business  
21 people, secretaries, professional people were demoralized  
22 mentally and financially devastated while you were spending  
23 their money for your own pleasure.

24 You also took advantage and preyed on the elderly  
10:50:49 25 by soliciting retirement centers. The elderly would have no

1 way to replace their money, but did you care? No. The  
2 elderly were from the great generation who grew up in the  
3 United States during the deprivation of the great depression  
4 and then went to fight World War II. They were frugal  
10:51:10 5 people that saved for their retirement. Now they had  
6 nothing. Their hard earned money was gone.

7 You didn't care how long and hard these people  
8 worked for what they had. You wanted the easy way out and  
9 knowingly stole their wealth and peace of mind. Once your  
10:51:27 10 Ponzi scheme was revealed, you fled the country with no  
11 remorse, nor accepting responsibility for bilking millions  
12 of dollars from your victims.

13 Your Honor, Mr. Bartoli deserves the maximum  
14 sentence for his crimes. Given the opportunity, I believe  
10:51:43 15 that Mr. Bartoli will continue victimizing people when  
16 released from prison.

17 In conclusion, I would also like to thank the  
18 justice department for finding and bringing Mr. Bartoli to  
19 justice.

10:51:56 20 THE COURT: Thank you, ma'am.

21 MS. BESSELMAN: Thank you, Your Honor.

22 THE COURT: You're welcome.

23 MR. GEORGALIS: Judge, the government would ask  
24 Dr. Tammy Bixler-Zalesinsky to please approach.

10:52:08 25 MS. BIXLER-ZALESINSKY: My name is Dr. Tammy

1 Bixler-Zalesinsky, B-I-X-L-E-R, hyphen, Z-A-L-E-S-I-N-S-K-Y.

2 In honor of being just before Veteran's Day, I  
3 want to highlight one of Mr. Bartoli's victims, my  
4 grandfather, Paul Kenneth Gallatin. Everyone called him  
10:52:52 5 Kenny.

6 Before U.S. declared war in 1941, my grandfather  
7 joined the U.S. Army because he was not only trustworthy and  
8 hard working, but he was also a patriot. He was a medic  
9 until he was captured, and then he was a POW in German  
10:53:10 10 prison camps. He knew hard times and living with very  
11 little resources.

12 After the war, he returned to Northeastern Ohio  
13 and worked 36 years as a machinist. And when I say he  
14 worked, I mean he worked every single day for 36 years.

10:53:29 15 Why was he so dedicated? He wanted to build up  
16 resources for his family and for himself, so as he got  
17 older, he would have them when he needed care. Sadly, his  
18 retirement that he worked so hard to earn was scavenged by  
19 Mr. Bartoli.

10:53:51 20 As a result of Mr. Bartoli's taking my  
21 grandfather's retirement and using it for his own personal  
22 use, my grandfather was declared to be indigent. His house  
23 was sold, he had no money, he had no clothing. Finding ways  
24 to provide care for him in his last few years was extremely  
10:54:10 25 difficult.



1 He had no money for food. He had no money for  
2 clothing. He had no money for care. He came to live with  
3 my family without a penny of resources. He -- we cared for  
4 him around the clock and making sure he never needed for  
5 anything.

6 While that does sound like a happy ending, let me  
7 assure you that I remember holding my grandfather's hand as  
8 he wept because he knew he could not provide for himself,  
9 something that had been a life-long goal.

10 I remember my grandfather as a strong, brave, Army  
11 veteran who also was a hard-working man. He worked every  
12 day the afternoon shift and he came home every night at  
13 midnight without ever complaining.

14 Because he was declared to be destitute and unable  
15 to pay his bills, he could not choose his own doctors as the  
16 end drew near for him. All those doctors who had his  
17 medical history going back decades, he could not use their  
18 background and their knowledge.

19 He could not even get a new pair of glasses when  
20 they broke. I was right beside him at every medical  
21 appointment when he had to say he was on Medicaid. He had  
22 no medical insurance and no way to pay his bills or even get  
23 the prescriptions.

24 Trust me, people you have known your entire life  
25 look at a person very differently when they hear that you

1 have no money and you are asking the government to pay your  
2 bills.

3 He may have been old, but he knew the shame of and  
4 the burden of being without money to provide for himself,  
10:55:54 5 despite his plan and hard work his entire life and his  
6 dedication to his country, his job and his family.

7 Today, Mr. Bartoli, we are dedicated to insuring  
8 that you bear the shame of what you did to trustworthy and  
9 hard-working individuals like my grandfather. Today stops  
10:56:15 10 the cycle of deception and greed and shame you have brought  
11 into your lives.

12 THE COURT: Thank you, ma'am.

13 Counsel.

14 MR. GEORGALIS: Thank you, Judge.

10:56:29 15 Judge, the government would ask Denise Bosoni to  
16 the approach.

17 MS. BOSONI: Thank you.

18 THE COURT: Good morning.

19 MS. BOSONI: Good morning.

10:57:04 20 I am sorry, sir.

21 THE COURT: Take your time, ma'am. It's all  
22 right.

23 MS. BOSONI: Good morning, Your Honor. My name is  
24 Denise Ann Esposito Bosoni.

10:57:21 25 I am addressing this court on behalf of my father,

1 Peter J. Esposito, Sr., due to the fact he passed away in my  
2 arms on May 15, 2001 in my home because he couldn't even  
3 have his own anymore, only three years after meeting and  
4 becoming a victim of Eric Bartoli.

10:57:41 5 Eric, you conned and manipulated my brother, Peter  
6 J. Esposito, Jr., to work with you by convincing him your  
7 fake Cyprus Investment Fund was legal and legit. You  
8 single-handedly sought him out and his other employees to be  
9 set up to be a part of the under-handed pyramid Ponzi scheme  
10:58:08 10 which only you were aware of.

11 Then you set him out to enlist investors by doing  
12 your bidding and all your dirty work. Pete even convinced  
13 our father to invest and become part of your great Cyprus  
14 family, which really was what? You even gave him ID card  
10:58:32 15 with an account number on it. Remember that?

16 But to truly add insult to injury, you did this  
17 despicable, unthinkable act to my dad through his own son.  
18 How could you do that? Honestly, really? How could you do  
19 that? And then look in the mirror and go on to do it again?

10:58:57 20 I remember when the checks started bouncing. You  
21 personally called my dad to tell him, "Don't worry, Pete.  
22 Everything was okay, and the investment was safe."

23 Then you promised him you were going to take care  
24 of him and return his entire investment. Don't worry, you  
10:59:16 25 had his back. Again, you gave him your word. And we all

1 see what that was worth. Absolutely nothing, just like you.

2 But what you did do was run and hide to become  
3 Enrico Orlandini, kind of like a magician's name. What was  
4 that? Joke? Make everybody's money disappear and only you  
10:59:39 5 have it?

6 And then to continue your scam only somewhere else  
7 to do it all over again in another state, another country,  
8 two more victims.

9 My dad lost \$100,000, not as much as a lot of  
10:59:55 10 other victims, but a fortune to him nevertheless. My dad  
11 was very proud of his 50-plus years as a bricklayer and  
12 mason contractor. He worked hard and long hours for every  
13 penny he earned, unlike you. But of all, he loved his  
14 family, not money, but with pride and honor and dignity, he  
11:00:20 15 took his life's work savings and wanted to leave something  
16 to his four children and 14 grandchildren, but your lies,  
17 deceit, greed prevented all that.

18 Eric, you single-handedly stole all that from my  
19 dad and my family.

11:00:40 20 During all this time, my dad, before you, found  
21 time to become a volunteer at Lutheran Hospital, giving  
22 service to so many people without any pay, just his heart  
23 and kindness. My dad was funny, kind, loving and a very  
24 caring, honest person. Everything you are not.

11:01:03 25 As a daughter, I want you to hear this and really

1 keep it in your heart. At a very young age, my dad taught  
2 us about God, good and evil, how always to do our best, to  
3 do good and be good. He also warned us about the devil and  
4 his evil.

11:01:21 5 Every time someone does something to offend God,  
6 they were doing the devil's work and hurting God.

7 You think that's a good description of your life  
8 and a definition of just who you are? Pure evil.

9 Eric, you stole my father's life savings, but make  
11:01:41 10 no mistake, you did not get his dignity, his self-worth or  
11 honor, three things you will never know anything about. Our  
12 father went to heaven very wealthy because he died an  
13 honorable, spiritual, loved man, another list of things that  
14 you will never be or ever achieve to be.

11:02:00 15 My brother Pete went to prison for two years  
16 leaving his family and four children, because he didn't have  
17 the proper license which you also knew and victimized him,  
18 not because he deliberately conned and scammed people out of  
19 their life savings like you did.

11:02:19 20 So for my brother and others who you convinced to  
21 work for you and with you for you to get only eight to ten  
22 years is a joke and not justice by any means.

23 Your Honor, please, I am begging you, please give  
24 Eric Bartoli the maximum sentence, and the punishment for  
11:02:49 25 all his crimes, especially for all the broken-hearted

1 seniors and people that die poor because his lack of greed  
2 -- because of his greed and lack of humanity.

3 Anything less than life to me is unfair and  
4 unjust, considering his total disregard and respect for  
11:03:14 5 people, their livelihood and lack of respect for the law.

6 Your Honor, I thank you for your time in this  
7 courtroom for hearing this.

8 THE COURT: Thank you, ma'am.

9 MS. BOSONI: Thank you.

11:03:30 10 THE COURT: Be careful as you return to your seat,  
11 please.

12 Counsel.

13 MR. GEORGALIS: Thank you, Judge.

14 Judge, the government asks Jennifer McCleese to  
11:04:01 15 please approach.

16 MS. MCCLEESE: My name is Jennifer McCleese,  
17 M-C-C-L-E-E-S-E.

18 I've never been in a situation like this before  
19 and I know I am really nervous and I never thought that I  
11:04:37 20 would prepare anything and I didn't think I was going to  
21 speak today. But when I came here today, I felt I had to.

22 My experience began almost 20 years ago, so I was  
23 20 years younger than I am now. I was young and we had some  
24 -- we went to get our taxes done and we had some money that  
11:05:05 25 we had to invest or pay taxes on it, and that's when James

1 Binge said to us, "You know, you want to put some money in  
2 here." I wasn't looking for big returns or anything or to  
3 get rich quick. I was young and we had to do something with  
4 our money. I trusted him because he's done my taxes in the  
11:05:25 5 past.

6 But I see so many people around me that has been  
7 really hurt and suffered greatly. I don't feel I have,  
8 because I don't feel I've had invested what a lot of people  
9 here has, but for myself, the way I've dealt with this is,  
11:05:51 10 and maybe a lot of people don't feel this way, but I put it  
11 in the right perspective and I forgive Mr. Bartoli for what  
12 he's done.

13 I think I am around the same age that he is, you  
14 know, we probably grew up listening to the Beatles, bell  
11:06:09 15 bottoms, going to football games. So why did he take the  
16 path he took and I took the path I took? There's only --  
17 God can only answer that for us.

18 But the reason I am here is because I went to a  
19 meeting, which many of the people here probably did years  
11:06:28 20 ago, I think it was in Dalton. It was standing room only.  
21 They had attorneys there and explained to us what  
22 Mr. Bartoli and the other members did to a lot of the  
23 people.

24 And the reason I am here now is because I can't  
11:06:43 25 get a certain image out of my mind after all these years.

1 And that image is when we were standing in that big room or  
2 auditorium, there's an elderly -- and it may be some people  
3 spoke today, it might be their father, their grandfather,  
4 but he was sitting in a folding chair against the wall.

11:07:08 5 What I can remember, I never knew his name, he was  
6 a white-haired man, very frail looking, and he had a folder  
7 on his lap, and I never asked him too much or anything. I  
8 didn't ask him, but I just figured it was all his papers and  
9 legal papers, and he was probably hoping to get some answers  
11:07:33 10 that night which a lot of us were.

11 And he sat there, and I think I will never forget  
12 what he said to me. I'm standing there, like I say, a lot  
13 younger than I am today, and he was this elderly frail man.  
14 And he offered -- he offered me his chair. And I thought,  
11:08:05 15 "I am so much younger than you. And I feel so bad for you."

16 And also, I just can't get him out the my mind and  
17 that's why I had to speak today.

18 And also a dear close friend of ours was featured  
19 on American Greed, and when we watched those shows and I  
11:08:29 20 never thought I'd see a friend of mine on American Greed,  
21 and we watched those shows. After we watched them, my  
22 husband and I always say, we watched them periodically, we  
23 always thought I would like to ask them how much is enough?  
24 How much money, how much material things do you need to be  
11:08:49 25 happy? It's not where it comes from. It comes from within.



1 And like I said earlier, I forgive him. That's my way of  
2 dealing with it.

3 And I just can't get that man out of my mind. I  
4 never could. He offered me his chair.

11:09:06 5 Thank you.

6 THE COURT: You're welcome.

7 Let's let her get seated, please. All right.

8 Now --

9 MR. GEORGALIS: Judge, the government asks Nancy  
11:09:31 10 Lyons Miller to please approach.

11 MS. LYON MILLER: My name is Nancy Lyons Miller.

12 L-Y-O-N-S, M-I-L-L-E-R.

13 I am here today to represent my mother, Etta

14 Smith.

11:10:33 15 It really gives me some pleasure to see that guy  
16 in an orange jump suit, unlike his fancy Navy blue suit with  
17 his big shiny car. Those days are over for you. He  
18 probably doesn't remember me.

19 How could he? There's been so many that he's met  
11:11:19 20 and robbed, but I met him in my mother's kitchen and it's  
21 the first time I felt like I was in the presence of evil.  
22 He persuaded my mom to give up her life savings. She  
23 thought she was making some new friends with the Cyprus  
24 boys.

11:12:05 25 My husband and I knew different and she wouldn't

1 listen.

2 After reading an article on the Cyprus phone scam  
3 in the Plain Dealer in 1999, my life and the life of my  
4 family was forever changed.

11:12:28 5 Over the course of 17 years, I've struggled  
6 emotionally, physically and financially to find peace in  
7 having watched my mother's life savings stolen away,  
8 subsequently, also stealing the last few years of her life  
9 which were consumed with grief, shame, anger and sadness.

11:12:52 10 Over what she anticipated to be a thoughtful  
11 investment for her family's future as her legacy after she  
12 passed, words can't even begin to express the effects of the  
13 Cyprus fund scam on my family, especially my relationship  
14 with my mother.

11:13:21 15 As the only surviving family member to my mother  
16 who had moved in with us, I was both her caretaker and  
17 overseer. Eight months after the news of the Cyprus funds  
18 collapsed, my mother was diagnosed with terminal cancer.

19 I am confident that the stress of this Cyprus news  
11:13:55 20 promoted the rapid progression of the disease and plagued  
21 her as she lost everything she and my father had worked  
22 their entire lives for.

23 Most costly of all, this ordeal took away valuable  
24 time between four family which can never be replaced, time  
11:14:24 25 that was tainted with anger, regret, shame and stress.

1 Her last years of life could have been different.  
2 She could have died with a satisfaction and dignity of  
3 helping her family who struggled financially.

4 In '99 and 2000, I spent countless hours  
11:14:47 5 collecting, organizing and retrieving information for the  
6 receivership. This process took my stress level to a  
7 maximum, arguing about facts and records and so much  
8 information that my mom could not recall. This was not the  
9 way we wanted to or should have had to spend our final years  
11:15:13 10 together.

11 My mother was paying for my return to college to  
12 pursue a better career. After the Cyprus news, I was forced  
13 to drop out of school, help pay family bills and for my  
14 mother's care. She was planning to pay for my daughter's  
11:15:45 15 college education. As a result of the Cyprus scam, my  
16 daughter moved back to Ohio to work as our nest egg had  
17 suddenly disappeared.

18 Naturally my marriage suffered, as well, as I was  
19 bound by stress and consumed by grief.

11:16:01 20 It honestly seems like life for my family has been  
21 an uphill battle of ripple effects after the Cyprus scam  
22 came to light.

23 My mother's dying wish was for Bartoli to get  
24 justice. I think today she can rest in peace. I beg you to  
11:16:45 25 give him the strictest, longest sentence possible in the

1       worst conditions. Nine years is not enough.

2               He hurt so many people, hundreds and hundreds of  
3       people as the stories have already been mentioned.

4               I thank you.

11:17:15 5               THE COURT: Thank you, ma'am. Counsel.

6               MR. GEORGALIS: Judge, the government asks Jerry  
7       Schaeffer to please approach the podium.

8               MS. SCHAEFFER: Good morning.

9               THE COURT: Good morning.

11:18:02 10              MS. SCHAEFFER: My name is Jerry Schaeffer,  
11       S-C-H-E-A-E-F-F-E-R.

12              I am the wife of Eugene R. Schaeffer, Randy. Like  
13       the other ones here, we were affected by Eric. Our personal  
14       dreams, which doesn't seem like much compared to others  
11:18:42 15       here, but my husband worked hard, as did I. I worked while  
16       my kids grew up, always planned some college. The oldest  
17       boy was accepted at Ohio State. We had planned on using --  
18       we had given Eric a check and I believe my husband believes  
19       that we were probably one of the last before he was caught.

11:19:17 20              We had never got any returns and were pressured to  
21       get the money we had given. So my husband has -- he works  
22       at the U.S. post office in Milan, Ohio. He had -- we grew  
23       up on a dairy farm. We had saved what money we did have  
24       shortly after marriage and invested in good dairy cows.  
11:19:48 25       That was his pride and joy other than his kids, and I would

1 like to think me, but as it turned out, he grew his cow  
2 business into a productive business also. And as our other  
3 boys grew, they were all in high school, we ended up selling  
4 the 40 cows to put them through school so they wouldn't have  
11:20:23 5 bank loans and that sort of thing.

6 Which is fine, and like I say, we anticipated on  
7 building a home. That never happened.

8 Not only did this -- like I say, we were the last,  
9 I believe, but my husband's whole family also was involved  
11:20:45 10 in this. They had been in it for a few years and thought  
11 everything was okay, until a certain day, they went to  
12 withdraw some money out of their account and found out there  
13 was nothing left.

14 There was quite a few family members that was  
11:21:12 15 affected by this, Randy's sister, and I believe a few  
16 brother-in-laws, also.

17 And his dad is still living in his 90's. He still  
18 has a farm, but I believe his mother has passed and not --  
19 she had a health issue also, but I am sure it didn't help it  
11:21:42 20 either.

21 I, too, wasn't going to speak today. But I felt I  
22 came this far. I wanted to be heard, and I am afraid he did  
23 escape once, and I do want to thank everybody who did  
24 receive him back and hopefully, these other people and  
11:22:15 25 ourselves do at least know there is justice, and if not

1 here, you will. You will find justice. Thank you.

2 THE COURT: Thank you, ma'am.

3 Counsel.

4 MR. GEORGALIS: Thank you, Judge.

11:22:43 5 Judge, the government asks Lloyd Smith to please  
6 approach the podium.

7 MR. SMITH: My name is Lloyd Smith, S-M-I-T-H.

8 Your Honor, thank you for giving me the privilege  
9 to voice my feelings.

11:23:21 10 THE COURT: You're welcome, sir.

11 MR. SMITH: I would like to thank the FBI. They  
12 finally got him. And I guess that's what makes America  
13 great is they kept on trying.

14 My story is similar to everybody else. We lost  
11:23:46 15 everything. When we got the notice that there was no more  
16 money, the wife and I went to the grocery store. Between  
17 us, we had 20 bucks. You ever buy groceries on 20 bucks  
18 when you are used to spending 100, 150? We looked at  
19 everything. We bought coffee. Our favorite brand? Nope,  
11:24:15 20 we couldn't afford it anymore. We had to find the cheapest  
21 brand of coffee they had. A lot of the stuff that we did, I  
22 was very mean and very cruel. I did not make any friends.  
23 I was hostile to everybody. The proverbial thing, I would  
24 kick puppies and I wouldn't even hold a baby.

11:24:43 25 That's how much hatred I had.

1           Thank goodness, my wife, she was stronger than me  
2           and helped me get through it. So now we gave up everything  
3           we had. And I am working. And I will work until my toes  
4           turn up because I don't have no choice.

11:25:14 5           Bartoli, I can't call him sir or Mr. because he  
6           doesn't deserve that much respect.

7           I've heard that they said that he would be  
8           incarcerated in federal prison. Well, my understanding of  
9           the federal prison is like a damn day camp. He's not in  
11:25:44 10          with hardened criminals. He's out there living the good  
11          life. Sure, he's getting three meals a day. Maybe he ought  
12          to go without three meals a day just so he can understand  
13          what all of his victims went through.

14          I've heard him say or heard said that he doesn't  
11:26:02 15          have any money. Well, just about everybody in this  
16          courtroom says that's a bunch of BS, that he's got it  
17          squirreled away someplace and his children or whoever is  
18          going to get the money.

19          He did one of the most heinous things. He  
11:26:30 20          violated at least one of the Ten Commandments that we know  
21          of, and thou shall not steal. He did do that. He's a  
22          down-right thief, and to call him anything nicer than that  
23          would be an insult to all the people that are present today.

24          I've wondered about many of the things that that's  
11:26:55 25          gone through his mind. He's sitting over there like a bump

1 on a log and he feels he got a good deal. Maybe he plea  
2 bargained. Maybe he said, "Well, I can't -- you know, I  
3 don't have any money, so I will just throw myself on the  
4 mercy of the court and say I am guilty." Yeah, we know he's  
11:27:14 5 guilty.

6 But I guess part of me wants to say, "Well, gee,  
7 the last time I checked, most lawyers don't work for free,  
8 so somebody has got to be paying them," and I can't imagine  
9 the tax dollars for his.

11:27:28 10 I don't mind my tax dollars for paying for the  
11 people that's prosecuting him. I think they're doing a  
12 terrific job.

13 The final thing I guess we know he did all of  
14 this, and I understand that he had to serve some time in  
11:27:50 15 South America or someplace in that vicinity.

16 And I understand he put some time in down there.  
17 Well, the time that he put in prison down there should be  
18 for those people, and he shouldn't get credit for it for up  
19 here.

11:28:06 20 This is America. This is the United States. And  
21 granted we're trying to make it better, and things will get  
22 turned around, but individuals like Bartoli -- I understand  
23 also that it's a family thing. His father did the same  
24 thing. So, gee, I understand he's got children. So I guess  
11:28:30 25 we get to look forward -- of course, we won't get caught in



1 it, but there's going to be a lot of other people that's  
2 probably going to get caught in one of the scams of his own  
3 children are going to run because it seems to be their way  
4 of life.

11:28:43 5 But he's a thief, and he deserves to be treated as  
6 a thief.

7 The only thing I would ask of you, Your Honor, is  
8 it possible to have a lien against Bartoli for the rest of  
9 his life that any monies that he doesn't pay anybody, any  
11:29:05 10 monies that he earns or gets or magically has found, he has  
11 to part with it for his victims.

12 Thank you, Your Honor.

13 THE COURT: Thank you, sir. We will address that  
14 at the time of the final sentencing order.

11:29:22 15 Counsel for the government.

16 MR. GEORGALIS: Judge, that concludes the victims  
17 that are present in the courtroom that would like to speak.

18 There are the two letters that we would like to  
19 read into the record.

11:29:39 20 THE COURT: Please use the podium so you can be  
21 heard.

22 MR. GEORGALIS: Thank you, Judge.

23 Judge, the first letter is from a victim by the  
24 name of John Kosmides, K-O-S-M-I-D-E-S.

11:29:55 25 And it reads as follows:

1           My name is John Kosmides. I would first like to  
2           thank the court for allowing me to speak at this hearing.  
3           Let me start by saying it's been around 20 years since this  
4           incident happened.

11:30:10 5           Back then, I had developed a relationship with a  
6           Mr. Jim Binge who was my accountant for a small business  
7           that I started back in 1996, to which my wife and I had to  
8           borrow \$85,000 to acquire. Jim seemed to be very helpful in  
9           making sure I set my company up properly, and as time went  
11:30:27 10          by, I grew to trust him.

11           As time went by in 1996, and I started making ends  
12          meet is about the time he confronted me with an investment  
13          opportunity that he said was full proof, and that I would  
14          make substantial interest gains on my money, and at the same  
11:30:42 15          time put myself and my company in a position to pay less  
16          taxes.

17           I was sort of leery about this because I always  
18          felt that it was my obligation to pay my fair share in  
19          taxes, but Jim introduced me to other people that he said  
11:30:56 20          were in the same fund and that I should not be worried in  
21          the least bit.

22           This investment was called the Cyprus Fund. And  
23          it would enable me to use tax credits based on setting up my  
24          company in such a manner that I would pretty much have to  
11:31:10 25          pay no taxes whatsoever or very minimal at the least.

1 I asked him, "What is the Cyprus Fund. And who is  
2 in charge of this fund?" And he stated that a Mr. Eric  
3 Bartoli was the man in charge and he would do all the  
4 necessary investments to help me grow my money.

11:31:27 5 Mr. Binge informed me that he was working directly  
6 for Eric Bartoli and Jim was the one who made the contacts  
7 such as me accessible to this opportunity. He told me it  
8 was perfectly legal and many businesses are doing the exact  
9 same thing, but obviously, in a bigger scale.

11:31:43 10 He even produced documents showing me legally how  
11 this would work. Of course there was a \$5,000 in cash  
12 up-front investment to show good faith on my part.

13 So much for good faith, right, Eric?

14 Little did I do know that a guy named Eric Bartoli  
11:31:59 15 and Jim Binge would make my life very difficult for the  
16 coming years.

17 As a result of the above-mentioned Cyprus Fund  
18 investment fraud, the following occurred:

19 Roughly three years later, the bottom fell out and  
11:32:11 20 in October of 1999, I found out that the Cyprus Fund was a  
21 fraud. During those three years, I had invested substantial  
22 amount of money that was pretty much my wife and I's life  
23 savings.

24 We lost every penny, plus the interest that we  
11:32:26 25 thought was growing our investment.

1           This would have been monies that makes life  
2 somewhat easier and enable us to have enough money for our  
3 kids' college educations.

4           To make matters worse, I had to restart my company  
11:32:38 5 again on January 1, 2000 with a whopping \$530.08. That's  
6 all the money my wife and I had left.

7           We were left with company loans that had to be  
8 paid along with normal life and general debt.

9           We were the ones that had to call banks and  
11:32:55 10 finance companies and ask for extensions for loans that I  
11 could not pay, not Eric Bartoli.

12           We were the ones who had to borrow money from  
13 lenders to help us pay other lenders, not Eric Bartoli.

14           Eric Bartoli was out having a good time with not  
11:33:10 15 only our money, but other people's money that he scammed  
16 from us, based on a trust factor. The only intent Eric  
17 Bartoli had was malicious intent that affected many people's  
18 lives. So much for trusting in people, I guess.

19           To make matters worse, on October 31, 2000, I was  
11:33:28 20 sent a letter from the IRS notifying me that I owed  
21 \$92,969.39 on back taxes that were not paid going back to  
22 '96, 1997, 1998 and '99.

23           Mind you that Jim Binge, your cohort, was my  
24 accountant at those times and did all my tax returns,  
11:33:48 25 personal and company, and roughly the same time I was sent a

1 letter from the State of Ohio notifying me that I owed back  
2 taxes from 1996 in the grand total of \$12,000.

3 Keep in mind that does not include all the  
4 attorney and new accountant fees that I had to pay for to  
11:34:04 5 help me through this mess, which accounted for another  
6 18,000.

7 Then on April 1, 2002, we had to take another loan  
8 from Bank One in the amount of \$25,552.87 just to help make  
9 ends meet, personal and company, to which I had to put my  
11:34:21 10 home on as collateral.

11 This obviously does not include any additional  
12 interest that we had to pay back.

13 Keep in mind that we were still trying to pay off  
14 the original 85,000 note from 1996.

11:34:34 15 So, Mr. Bartoli, if we added up all the additional  
16 expense dollars that we lost, not including what you took  
17 from me originally, it would be a very nice retirement  
18 package that I could have right now at my age of 67 years  
19 old, but you took that away from me and my family.

11:34:48 20 I could go on and on how you pretty much made my  
21 family's lives very difficult for a long period of time, but  
22 why? Eric Bartoli is a name that I will remember for the  
23 rest of my life, that has caused nothing but anger and grief  
24 in my life.

11:35:02 25 Whatever the court sentences you to in my opinion

1 will not be enough for all the people's lives, including  
2 mine, that you have impacted in a negative way.

3 THE COURT: All right. One more?

4 MR. GEORGALIS: Final letter, Judge. This one is  
11:35:16 5 from victim Delores Snell, and she writes as follows:

6 When we entrusted Eric Bartoli to manage our  
7 funds, we had the utmost trust in him and his services. My  
8 husband and I made a decent living and were not wealthy, by  
9 any means, but we wanted to make sure that retirement was  
11:35:32 10 good for us.

11 My husband died eight and a half years ago and had  
12 we not lost our life savings, my life would be easier. I am  
13 forced to live on Social Security alone, and without my  
14 husband's income, it becomes very difficult to manage every  
11:35:46 15 month.

16 My youngest son had got cancer and I was sick with  
17 worry that we couldn't help him financially with his illness  
18 and recovery.

19 I did not actively seek counseling, but prayed a  
11:35:57 20 lot then and continue to pray now. My faith has brought me  
21 through this so far.

22 Every month that I can't pay a bill or buy extra  
23 groceries, I am reminded of the deceit and fraud Mr. Bartoli  
24 created. I live penny by penny and can't afford any extras  
11:36:13 25 for myself or do as I wish I could and would have been able

1 to do for my children and grandchildren.

2 My house is now under reverse mortgage so that I  
3 wouldn't have lost that to pay for medical bills. Even  
4 though I had no house payment, I have nothing left for my  
11:36:29 5 children and after all the years that my husband and I both  
6 worked to accumulate a meager means. We worked very hard  
7 and endless hours and have nothing to show it. Mr. Bartoli  
8 robbed me of my life as I knew it.

9 I don't know how anyone could live with themselves  
11:36:42 10 after what he did to all of us.

11 THE COURT: All right. Thank you, Counsel.

12 Is everybody ready to proceed or able to proceed?  
13 I know we've gone for quite some time. Anyone need a break  
14 before we go further and complete the sentencing hearing?

11:36:59 15 MR. GEORGALIS: Government is ready to proceed.

16 MR. WARD: Likewise.

17 THE COURT: All right. We will go forward.

18 The court, of course, is required to properly  
19 calculate the advisory guidelines. In doing so, I will  
11:37:10 20 review the recommendation of the probation officer.

21 As I previously advised the parties, although the  
22 parties' plea agreement recommends a guideline range that is  
23 higher than that calculated by the probation officer, in  
24 abundance of caution, before I consider the other statutory  
11:37:29 25 factors, I will follow the recommendation of the probation

1 officer in this case.

2 The calculation set forth at page 18 of the  
3 presentence report begins at paragraph 69. I will go  
4 through, just by way of summary. I know it's difficult for  
11:37:44 5 listeners to understand detailed guideline calculation, but  
6 as I've adopted the lower guideline calculation, I will  
7 simply summarize the guideline calculation.

8 Because we have a number of counts, multiple count  
9 adjustment applies, and as set forth in the PSI, and as I've  
11:38:02 10 so advised the parties, the total offense level here is a  
11 total offense level of 29.

12 As I understand it, if the defendant receives the  
13 benefits of accepting responsibility as recommended --  
14 actually it's 32 is the combined adjusted offense level, my  
11:38:22 15 apologies, a two-level downward adjustment for acceptance is  
16 pursuant to the parties' plea government.

17 Does the government seek the additional level?

18 MR. GEORGALIS: It does, Judge. Thank you.

19 THE COURT: Additional level will be granted at  
11:38:35 20 the government's request.

21 The offense level, therefore, becomes a 29.

22 And at offense level 29, the advisory guideline  
23 provisions are 87 to 108 months. The parties' plea  
24 agreement provision is 97 to 121 months. And I, again, in  
11:38:52 25 abundance of caution, I will adopt the calculation by the



1 probation officer and for reasons set forth in the report.

2 Statutory maximum penalties for Counts 1, 3, 8 and  
3 10 -- 1, 3, 8 through 10 is zero to five years. Counts 2, 4  
4 and 5 carry with it a statutory maximum of 20 years appears  
11:39:19 5 to be the calculation in this instance.

6 Counsel for the government, do you have any  
7 objection to the court's advisory guideline calculation?

8 MR. GEORGALIS: No objections, Your Honor.

9 THE COURT: Counsel for the defendant?

11:39:31 10 MR. WARD: No, Your Honor.

11 THE COURT: The parties will have a right to  
12 argue. Of course I will give both sides fair notice that  
13 based upon the nature and circumstances of the offense, as  
14 well as the defendant's history and characteristics and  
11:39:45 15 relevant conduct as outlined in the report, the court is  
16 contemplating an upward variance from above the guideline  
17 calculation recommended by the parties, and I do so and I  
18 contemplated it even before today.

19 I know we heard some emotional testimony from the  
11:40:02 20 victims. I also received a number of victim impact  
21 statements, more than 70, and which I've reviewed.

22 I should note for the record that I have reviewed  
23 the parties' sentencing memoranda, memoranda submitted by  
24 the defendant, a memoranda submitted by the government in  
11:40:18 25 response. Also note that those 70-plus victim impact

1 statements that I've just referenced have been provided to  
2 counsel for the defendant, and he has been given an  
3 opportunity to go over them and review them, and I will  
4 consider them as it relates to this case.

11:40:35 5 Having said those things, counsel for the  
6 defendant, what, if any, argument do you wish to make in  
7 mitigation before I hear from the defendant?

8 I know you have a binder. I would ask you to use  
9 the podium, sir, if you would. Typically we would use the  
11:40:49 10 table, but given the listeners in the courtroom, it would be  
11 more efficient for the listeners, please.

12 MR. WARD: Thank you, Your Honor. May it please  
13 the court.

14 The court has indicated that we have filed a  
11:41:03 15 sentencing memorandum on behalf of the Mr. Bartoli, and I  
16 certainly don't plan to read that memorandum into the  
17 record. I think the memorandum has been filed and obviously  
18 is part of the record.

19 I would, however, Judge, like to point a couple of  
11:41:18 20 things before Mr. Bartoli is given an opportunity to speak  
21 here today.

22 First of all, Judge, Mr. Bartoli realizes that he  
23 must serve a period of incarceration. That has been  
24 discussed with him from day one.

11:41:29 25 However, I would like to remind the court that

1 Mr. Bartoli has entered a very timely guilty plea in this  
2 matter and by so doing, he spared any of these victims who  
3 have come in here today from having to travel to Ohio to  
4 testify, as well as the government from having to prosecute  
11:41:44 5 a case where the evidence is over 20 years old.

6 I would also, Judge, point out the fact that in  
7 hearing these statements from the victims today, as well  
8 reading the various impact statements that have been  
9 provided to us, it's clear that Mr. Bartoli did not act  
11:41:59 10 alone. Today alone we've heard the name Esposito. Today  
11 we've heard the name Mr. Binge. All of those were  
12 individuals, who along with Mr. Bartoli, worked together in  
13 this whole endeavor.

14 And I would remind the court, Judge, of the  
11:42:15 15 sentences that were issued to both Mr. Esposito, a sentence  
16 of 24 months, as well as a name we have not heard today;  
17 however, I do believe it was referenced in the statements  
18 that we were provided to read and that being Douglas  
19 Shisler, who I believe received a 21-month sentence.

11:42:33 20 And I would ask the court -- I bring that to the  
21 court's attention simply for purposes as a sentencing  
22 guidelines outline to try to avoid any large sentencing  
23 disparities.

24 Finally, Judge, I would like to raise to the  
11:42:46 25 court's attention and bring to the court's attention, as

1 well, the victims here that Mr. Bartoli has been  
2 incarcerated since December 11, 2013.

3 To date he's almost served three years and two  
4 which were in a Peruvian prison. He was returned to the  
11:43:02 5 United States approximately one year ago. He's remained in  
6 custody since that date.

7 And I certainly would ask the court to give him  
8 credit for time served.

9 Judge, I'm not going to go into, again, the  
11:43:12 10 record. I believe that the sentencing memorandum talks  
11 about the characteristics of Mr. Bartoli. He not unlike  
12 many of these victims, had a wife, had children. I know  
13 there's been some discussion about him leaving the United  
14 States, and I've addressed that in my sentencing memorandum.

11:43:30 15 But I would ask the court to take those factors  
16 into consideration prior to imposing any sentence and prior  
17 to allowing Mr. Bartoli the opportunity to address you, as  
18 well as any victims that are here today, sir.

19 THE COURT: One question before I hear from  
11:43:43 20 Mr. Bartoli. When Mr. Bartoli was held in custody in Peru,  
21 was it related to crimes that he was committing while in  
22 Peru, relevant conduct which we will discuss when I impose  
23 sentence?

24 But he clearly, when he left this country and  
11:44:00 25 relocated to Peru, used various aliases, set up the same

1 type of scam and scheme, was he being held strictly on the  
2 government's warrant, or was he being held related to these  
3 other crimes that were being committed in Peru, because it  
4 has a great bearing on whether or not credit for time be  
5 granted.

6 I can recommend to the BOP. I can't dictate or  
7 control what their decision will be, but as I understand the  
8 regulations and/or the statute, if he's serving time or  
9 being held on anything other than this particular case, the  
10 warrant out of this case, then he may not be entitled for  
11 credit for time served.

12 So what do we know about what was going on in  
13 Peru, the nature, the reasons why he was held in Peru?

14 MR. WARD: May I confer briefly with counsel?

15 THE COURT: You may, and I am going to be asking  
16 the government the same question. They're going to have to  
17 give me some particulars of that aspect of things.

18 MR. WARD: Thank you, Your Honor.

19 THE COURT: And the reason I ask, so that everyone  
20 can respond, is that I find it somewhat interesting that the  
21 defendant is in Peru and living sort of in some respects  
22 openly, shall we say, but perhaps maybe not with his various  
23 aliases, with this outstanding warrant.

24 And it's not until it appears where someone might  
25 argue, where someone might speculate, that it's not until he

1 starts committing crime in Peru, that all of a sudden action  
2 is undertaken under the United States warrant.

3 So, again --

4 MS. BACON: May we have a moment?

11:45:52 5 THE COURT: I would be interested in all the  
6 details.

7 MS. BACON: May we have a one moment?

8 THE COURT: To talk to opposing counsel?

9 MS. BACON: We may have some additional  
11:46:00 10 information that might shed some light on this.

11 THE COURT: If you want to take a moment, you can  
12 take a moment.

13 (Pause.)

14 THE COURT: Counsel, do you have anything else you  
11:46:56 15 would like to add?

16 MR. WARD: Only in answer to your question and  
17 conferring with counsel, Your Honor, it's my understanding  
18 that he was arrested in Peru on this warrant pertaining to  
19 this matter, and was not charged in Peru for any additional  
11:47:08 20 offenses. That's my understanding, Judge.

21 THE COURT: I will give you a chance to respond to  
22 what the government presents if there's any response.

23 Again, I'm not sure that we're going to make a final

24 determination here. I think ultimately the BOP, Bureau of  
11:47:21 25 Prisons, might make that ultimate determination, but as it

1 relates to whatever I recommend, they're not bound to follow  
2 it in any event.

3 Let's hear it from the government so we have some  
4 information.

11:47:31 5 MR. GEORGALIS: Judge, I think our understanding  
6 is fairly consistent with what Mr. Ward has provided to the  
7 court, that Mr. Bartoli was indeed arrested and held on the  
8 government's warrant in this case while in Peru. He was  
9 there for two years because it's our understanding that the  
11:47:49 10 Peruvians were considering additional charges against him  
11 for conduct that he had undertaken in Peru against Peruvian  
12 victims, but ultimately no charges were filed by the  
13 Peruvians. And once they made that decision, he was  
14 ultimately shipped back up to the Northern District of Ohio.  
11:48:07 15 So he spent the two years in Peru was he was being held on  
16 by the warrant in this case, Judge.

17 THE COURT: And the source of that information?

18 MR. GEORGALIS: Was the FBI agents that  
19 participated in Mr. Bartoli's extradition, his arrest, that  
11:48:24 20 found him in order to sort of make this process even happen,  
21 as well as various reporting that we've read out of Peru.

22 THE COURT: Not to press you too hard, sir, then  
23 what triggered after all these many years, what triggered  
24 the Peruvian authorities taking action on this warrant after  
11:48:42 25 all these many years? The warrant had been outstanding for

1 quite some time?

2 MR. GEORGALIS: Agreed, Judge. My understanding  
3 is that once Mr. Bartoli committed additional fraud in Peru,  
4 he became more notorious and he was able to be found by the  
11:48:57 5 FBI through various on-line searches and through piecing  
6 together various parts of the puzzle where he was able to  
7 identify Mr. Bartoli, in fact, in Peru ten years after he  
8 fled the United States, so that would account for the gap.  
9 And once he was located, we immediately began the process to  
11:49:12 10 arrest and extricate him back to the United States.

11 THE COURT: All right. Thank you, sir.

12 Do you care to respond, counsel for the defendant?  
13 You don't have to. If you would like to, you have an  
14 opportunity, you may.

11:49:22 15 MR. WARD: Your Honor, I have nothing to add.

16 THE COURT: All right. Thank you.

17 Mr. Bartoli, what if any, statement do you wish to  
18 make on your own behalf? Since you're in custody, you can  
19 remain seated. Use the microphone if you would so you can  
11:49:34 20 be heard.

21 Counsel, you might want to pull the microphone  
22 down so he can speak loudly enough to be heard.

23 THE DEFENDANT: Yes, Your Honor. First and  
24 foremost, I would like to apologize to the court, to my  
11:49:46 25 daughter, and to my clients.



1                   This is obviously something that should have never  
2 happened.

3                   THE COURT: You mean your victims, correct?

4                   THE DEFENDANT: My victims?

11:49:58 5                   THE COURT: They're not clients, they're victims.  
6 Sorry to interrupt. Go ahead.

7                   THE DEFENDANT: I went into this business with my  
8 eyes wide open. And I knew better than to get involved, but  
9 did I it anyway. Strange as it sounds, I should have known  
11:50:11 10 that this day would come. Maybe I didn't know when it would  
11 occur, but I should have known it would come to pass.

12                   It just goes to show that you can't escape the  
13 consequences of your actions.

14                   I can tell you that I didn't get here in a  
11:50:26 15 straight line. In prison I've had a lot of time to reflect  
16 over the path I took to get here. I've come to realize that  
17 in my mind, I tend to shape the world based on my  
18 expectations and my expectations are misdirected or  
19 misguided, which turned out to be the case that my mind  
11:50:43 20 shapes the world with misguided expectations.

21                   Regarding Cypress funds, my expectations were  
22 misdirected. Seeking more money, with no consideration is  
23 how that money was obtained.

24                   Once I made that shift, this day, my sentencing  
11:51:01 25 day was inevitable.

1           When I began to engage in deception, the first  
2           person I had to deceive was myself.

3           I allowed the impulses of greed, envy and  
4           manipulation to determine my actions while ignoring the fact  
11:51:17 5           that the consequences were already built in and couldn't be  
6           escaped.

7           I cut corners for expediency. I surrounded myself  
8           with people who -- I listened to people who told me what I  
9           wanted to hear. I told myself that the ends would justify  
11:51:32 10           the means and I blocked the fact that dishonesty leads to  
11           self-sabotage. I ignored the reality that this creates  
12           conflict I can't escape. I ignored the voice in my head  
13           that said this can't be right.

14           As a result, I developed a tunnel vision. I put  
11:51:50 15           on blinders insisting that one way or the other, it will all  
16           work out in the end, but I never attempted to do anything  
17           different. With that in mind, I already spent three years  
18           in prison and that's forced me to change the way I think.

19           I have attempted during that time to better  
11:52:10 20           myself, to correct flaws and to learn from my mistakes.

21           I don't want the things that happened with Cypress  
22           Funds to be the last thing that people associate with me.

23           I don't want Cypress to be chiseled on my  
24           tombstone.

11:52:23 25           It wasn't easy to come to this realization. I had

1 to read a lot. I had to meditate a lot. I had to pray a  
2 lot and all that helped me to reflect. Through reflection,  
3 I have come to understand the things in my life that I  
4 either forgotten, didn't understand before, or worse yet, I  
11:52:43 5 didn't want to understand.

6 Prison made me see the cost of everything that I  
7 did. I saw what was missing, what I was missing. I missed  
8 weddings. I missed birthdays. I missed graduations. I  
9 missed anniversaries and funerals. My mother succumbed to  
11:53:02 10 cancer while I was in prison. She was asking for me and I  
11 wasn't there. I couldn't tell her all the things I needed  
12 to say to her, things she needed to hear.

13 That's a hell of a price to pay for money.

14 As a result, I realize what's important in life  
11:53:15 15 and it's not money. This whole experience has served to  
16 make me more aware of other people's needs and feelings,  
17 late but aware.

18 That's why I decided to dedicate whatever time  
19 necessary to make up for my past transgressions. I have a  
11:53:36 20 real need to do whatever is necessary to compensate those  
21 who are due compensation. And that way, when I am no longer  
22 here, others will look back on my life, maybe they won't  
23 focus so much on this day.

24 Thank you.

11:53:46 25 THE COURT: Thank you, sir.

1 Counsel for the government, what, if any, argument  
2 do you wish to make?

3 MR. GEORGALIS: Just briefly. May I approach the  
4 podium?

11:53:54 5 THE COURT: You may.

6 MR. GEORGALIS: Judge, as this court has already  
7 mentioned, the court and the parties have received scores of  
8 letters from victims, but not only from the victims  
9 themselves, but from the children of victims and even from  
11:54:15 10 the grandchildren of those victims.

11 And in those letters, the victims and the  
12 families, they set forth the details of the defendant's  
13 conduct and his offense, and how greatly his conduct has  
14 affected them; in some cases, destroyed their lives.

11:54:32 15 Judge, this fraud affected hundreds upon hundreds  
16 of victims, between 6 and 700, many of the victims  
17 themselves were elderly and hard-working people,  
18 hard-working families. That worked their entire lives to  
19 save, to invest and to give back to their families.

11:54:54 20 All that was evaporated by Mr. Bartoli. Judge,  
21 this was one of the largest and far-reaching and destructive  
22 fraud schemes in the history of this district.

23 As I said, his fraud not only affected the victims  
24 themselves, but the children and the grandchildren. This  
11:55:12 25 was a generational fraud, Judge. It affected an entire

1 town, entire families.

2 Mr. Bartoli was like a nuclear bomb being set off  
3 in rural Ohio fueled not by fire, but by his own greed and  
4 destroying things in his wake.

11:55:29 5 People are still suffering it from that today,  
6 Judge.

7 Judge, many of the victims that suffered appeared  
8 here, appeared here in court today and showed great bravery,  
9 I felt, in describing what they've been through and the  
11:55:47 10 horror and how horrible it's been for them and families.  
11 Hopefully this day will give them some closure.

12 But nevertheless, there is still great letters  
13 that we all read, and there's still great sadness in the  
14 speakers we heard here today, but hopefully, there's also  
11:56:05 15 some resilience for some of the victims and through today  
16 and through the sentencing, there might be some solace and  
17 some closure from this horrific event.

18 In reading through some of the letters that the  
19 court has read itself, various things have struck the  
11:56:25 20 government as being noteworthy. Many of the victims lost  
21 everything. They lost all their retirement, lost all their  
22 life savings, 40 years of work in earnings, and while that's  
23 just ink on paper, 40 years of work and earnings, that is so  
24 profound, the hours and the missed baseball games and the  
11:56:46 25 missed weddings and -- everything that goes into working 40

1 years, an entire life just evaporated.

2 In reading letters that victims in their 70's had  
3 to leave their retirement in order to find part-time and  
4 full-time work just to make ends meet.

11:57:04 5 Letters describing the depression, the anxiety,  
6 the anger and even the rage that the victims felt and the  
7 stress-related maladies that they had suffered and the  
8 effect that this conduct has had on the victims'  
9 relationship with their spouses, their children, and their  
11:57:25 10 -- and each other.

11 The trust that was annihilated as a result of this  
12 fraud, Judge, was pervasive. But perhaps the most profound  
13 effect was the loss of according to some victims, their own  
14 personal freedom, their loss to live and to enjoy their life  
11:57:45 15 as they had intended, and their loss of any type of peace of  
16 mind.

17 Judge, based upon these things and based upon  
18 guidelines and the sentencing factors and what the judge has  
19 heard from the very brave victims that came forward, as well  
11:57:58 20 as all the sent forth letters, government believes that a  
21 significant sentence is important in this case.

22 Thank you, Judge.

23 THE COURT: Thank you, Counsel.

24 The court, of course, is required to consider and  
11:58:11 25 evaluate a number of factors under 18, U.S. Code, 3553(a).

1 I will attempt to address them.

2 The court's statement may be somewhat lengthy  
3 given the history of this case, as well as the other  
4 pertinent factors that I am required to state for the  
11:58:25 5 record. I may also in writing set forth a written opinion  
6 confirming the court's sentence and the reason for same.

7 We begin with the nature and circumstances of the  
8 offense. It's spelled out in extensive detail at pages --  
9 paragraphs 28 through 50 of the presentence investigation  
11:58:43 10 report. And we will call it the Cypress scheme. The  
11 defendant, with the assistance of others, created an  
12 unregistered mutual fund for which he was the founder,  
13 manager, controlling director, and principal officer, and  
14 just as an aside, that sets him apart from the other two  
11:59:01 15 individuals who many years ago were convicted, Mr. Shisler  
16 and Mr. Esposito. So this defendant is in a separate  
17 position as it relates to this offense.

18 He created monthly newsletters and drafted  
19 prospectus and was involved in determining the price per  
11:59:17 20 share of investments into the mutual fund.

21 Mr. Bartoli and others defrauded and attempted to  
22 defraud investors located in the United States, Latin  
23 America and elsewhere by means of selling unregistered  
24 securities which were subject to registration, and Cypress  
11:59:32 25 and affiliated entities in diverting investor funds and

1 other investor schemes and personal use.

2 Mr. Bartoli willfully marketed and sold  
3 unregistered Cypress securities which were subject to  
4 registration using the mails and interstate commerce to  
11:59:46 5 investors in the United States including the Northern  
6 District of Ohio, Latin America, and elsewhere.

7 Mr. Bartoli did so despite being aware that  
8 foreign investment companies were forbidden from sharing  
9 with U.S. investors, and that the U.S. investment schemes or  
12:00:03 10 companies were required to register with the SEC in order to  
11 sell securities to United States investors.

12 By July 1999, Mr. Bartoli and his coconspirators  
13 had obtained approximately \$64,600,000 from more than 500  
14 Cypress investors in the United States and abroad.

12:00:22 15 Of that amount, approximately \$30,600,000 were  
16 returned to investors in the form of redemptions.

17 Now, on its face, that might seem like a positive,  
18 but in all likelihood, those returns on investments were  
19 simply the result of the Ponzi scheme which resulted in  
12:00:46 20 luring new investors. Without these payments and these  
21 payouts, the scheme would have, more likely than not, and I  
22 am somewhat speculating, would have collapsed much sooner  
23 than it did.

24 So the return to the investors, again, was one way  
12:01:03 25 of continuing the scheme and scam for many years.



1           Regarding the relevant conduct fraud, which is  
2           extremely important in deciding a sentence here, all of this  
3           activity occurred in the Northern District of Ohio and is  
4           worth noting that the defendant fled the country, and the  
12:01:18 5           government has pointed out in its memorandum in opposition  
6           to the defendant's memorandum, make no mistake, the  
7           defendant did flee. He fled to avoid prosecution and was  
8           able to evade prosecution and justice for many, many years.

9           While outside the country, what is of interest is  
12:01:33 10          that he did not choose to try to once, again, live a  
11          law-abiding life, to work or do something productive, but  
12          once, again, as outlined in the PSI, at paragraphs 51 and 58  
13          returned to the same type of activity in the criminal  
14          conduct which, in essence, resulted in the extraordinary  
12:01:51 15          devastation to so many people here.

16           And the relevant conduct, I will summarize it, as  
17          well. Beginning in 2006, Mr. Bartoli, using the name Enrico  
18          B. Orlandini, Giuseppe Luigi Borelli, Steve Betts and Roger  
19          Williams and while residing in Peru, reported to be an  
12:02:10 20          investment advisor and operator of several financial  
21          services firms and investment newsletters under multiple  
22          names, including Dow Theory, Analysis, DT, Analysis, Le  
23          Metropol Cafe, Rio Piura Investment Company, St. Andrews  
24          Investments and other names which are in the PSI.

12:02:32 25           Bartoli sold subscriptions to his various

1 investment newsletters and used his newsletters to build  
2 relationship of trust and confidence with his clients, and  
3 again, all of this is occurring in Peru.

4 Mr. Bartoli used these relationships to then offer  
12:02:47 5 clients purported opportunities to invest in multiple funds  
6 that he claimed to manage, which he did not, including but  
7 not limited, to a gold fund, a silver fund, a Dow Jones  
8 fund, a commodity fund and an option fund. The second  
9 scheme resulted in fraud amount of over five and a half  
12:03:07 10 million dollars.

11 Mr. Bartoli attempted or also attempted to conceal  
12 his scheme and wilfully attempted to evade or defeat income  
13 tax due and owing him by the United States for the tax years  
14 of 1996 through 1998. The tax loss for the three years is  
12:03:23 15 \$4,686,057.

16 The history and characteristics of the defendant.  
17 The defendant's now 62 years old, but was in his early to  
18 mid 40's when he committed these offenses. He has no  
19 criminal history other than there's been no conviction, but  
12:03:40 20 we do know about the relevant conduct, which I've referenced  
21 earlier. Again, there's not been a prosecution in Peru for  
22 reasons unknown to me.

23 He reported no abuse as a child, but he had an  
24 unusual relationship with his parents. He basically --  
12:03:57 25 according to Mr. Bartoli, allowed or they allowed the

1 defendant to be on his own at the age of 13, was allowed to  
2 do this so he that could play golf. His parents divorced  
3 when he was about 15 years old. His mother's deceased. His  
4 father is living, but the defendant had no contact with him  
12:04:15 5 since 1998 according to the PSI.

6 He has paternal half-siblings, but does not have  
7 contact with either of them.

8 He has been married and divorced once and has two  
9 children from his marriage. His ex-wife and son live in  
12:04:28 10 Peru and his daughter lives in Chicago.

11 The PSI indicates he has medical issues such as a  
12 heart valve problem and high blood pressure. He has no  
13 mental health issues. He reports no substance abuse, and he  
14 says he has a college degree.

12:04:42 15 His employment was in Peru and not verifiable. He  
16 does not appear to have the ability to pay a fine. And he  
17 does not have any monies to pay for restitution in this  
18 case.

19 In terms of sentencing disparities, there have  
12:04:58 20 been two other individuals named in related cases that was  
21 sentenced over 13 years ago. Their roles and involvement  
22 were significantly less than Mr. Bartoli. One received 21  
23 months custody and was ordered to pay \$8,659,000 plus in  
24 restitution for the Cypress fraud.

12:05:16 25 One received 24 months in custody and was ordered

1 to pay over 6 million in restitution for the Cypress fraud.

2 There's no indication in their judgment and  
3 commitments whether the restitution was joint and several  
4 and both completed three years of terms of supervised  
12:05:32 5 release. Their sentences are somewhat obviously  
6 considerably less than what Mr. Bartoli faces in this  
7 matter, and the disparity is driven by, again, the distinct  
8 differences and the overall conspiracy and scheme here, and  
9 I use the words "conspiracy" generically in this instance,  
12:05:52 10 not as it relates to a conviction, but he is certainly  
11 distinctly different than the others in this matter.

12 There's restitution, which is due. I will make  
13 the finding in the amount of \$4,686,057 to the IRS. We will  
14 put a separate order as it relates to the restitution to the  
12:06:12 15 victims in the case given the sheer volume and number of  
16 victims which are extremely extensive, 500 to 600. I  
17 believe the government references 700, but that number,  
18 suffice it to say, even over 500 is staggering.

19 In terms of the need for the sentence imposed,  
12:06:30 20 it's the court's duty to impose a sentence that meets these  
21 purposes; just punishment, adequate deterrence, protect the  
22 public, reflect the seriousness of the offense, improve the  
23 offender's conduct and condition.

24 The government has brought this case. They've  
12:06:48 25 negotiated a plea. The plea agreement sets forth

1 recommendations which I've considered. In my view, an  
2 upward variance in this case is clearly warranted, and I  
3 will state the reasons why here in open court, at least in  
4 summary, and I will put them up in a written order.

12:07:03 5 It's hard in a case of this nature, and I have and  
6 I will set aside emotion. The victims have come here and  
7 they have offered compelling statements.

8 Their statements that have been offered here are  
9 in many ways consistent with the numerous other statements  
12:07:21 10 that I've read, over 70-plus statements from victims in this  
11 case, and they outline for us the sheer volume, the sheer  
12 number the havoc that you have wreaked, Mr. Bartoli, on the  
13 lives of these people.

14 It is hard for anyone to understand or overstate  
12:07:44 15 what you have done to these individuals, most of them, most  
16 of them hard working, middle class people who have lived  
17 law-abiding lives, scrimping and saving and trying  
18 desperately to create funds for their retirement, for the  
19 education for their children, for their grandchildren, to be  
12:08:04 20 able to retire, not to be able to work.

21 It's reprehensible what you have done to this  
22 large number of victims. I have rarely in all 18 years on  
23 the bench seen anyone who's created so much harm to so many  
24 people, unsophisticated investors who were drawn in to this  
12:08:26 25 scam and scheme, many ways by you, and they're all retirees,

1 many of them elderly people who had no way, shape or form  
2 the ability to protect themselves from this scheme.

3 It is, again, reprehensible in my view and there  
4 is a lengthy sentence that needs to be imposed, not only for  
12:08:45 5 just punishment, so the victims understand there is justice,  
6 after more than ten years on the run, that there is justice  
7 at some point and there is a consequence, and that is what I  
8 am going to do in terms of just punishment. But why a  
9 variance is warranted in this case equally is that you have  
12:09:02 10 never been able to live a law-abiding life, at least in my  
11 mind as least you've been on the run.

12 It's compelling to me you go to Peru and you set  
13 up another scam and scheme that's nearly the same and create  
14 \$5 million from other victims.

12:09:17 15 I suspect, perhaps, if it wasn't for that scam and  
16 scheme, who knows. You may not have been apprehended. But  
17 there's a need for adequate deterrence, because you're a  
18 person who will not stop this kind of behavior unless you're  
19 incarcerated for a substantial period of time. So  
12:09:34 20 deterrence is important, protecting the public, reflecting  
21 seriousness of the offense is the other reason, improve your  
22 conduct and condition.

23 Having listened to your statement in open court  
24 today, it strikes me that you're more concerned about  
12:09:47 25 yourself and your own self-improvement than you are the

1 victims and the harm you've done to them here. It wasn't  
2 quite frankly a very heartfelt statement of apology to all  
3 of these individuals who come here today seeking justice.

4 Yes, you received credit for acceptance of  
12:10:04 5 responsibility. I quite frankly find it to be a bit  
6 disingenuous your statement to the court and your not quite  
7 frankly heartfelt apology.

8 Having said all those things, it's clear to me  
9 that the guidelines are wholly inadequate to meet the  
12:10:21 10 purposes of the sentencing statute as I've just indicated  
11 here. If this defendant was convicted today, while it's not  
12 certainly comparable, somewhat questionable, but I believe  
13 if I'm not mistaken, if the defendant was convicted today,  
14 the guidelines would be 360 months to life based upon the  
12:10:41 15 facts that I have before me.

16 So obviously we take a much harsher view of this  
17 kind of activity today, as we should, in the judiciary and,  
18 in particular, it's my duty to make certain that indeed the  
19 sentence fits the crime.

12:10:56 20 So for those reasons, pursuant to the Sentencing  
21 Reform Act of 1984, and 18, United States Code 3553(a), it  
22 is the judgment of the court that the defendant will be  
23 committed to the custody of the Bureau of Prisons to be  
24 imprisoned for a term of 240 months, 20 years on each of  
12:11:14 25 Counts 2, 4 and 5. They will be concurrent with terms of 60

1 months on Counts 1, 3, 8 and 10.

2 I will note for the record, yes, I have varied up  
3 substantially, a very substantial period of time. I would  
4 encourage any reviewing court who wishes to take issue with  
12:11:33 5 the court's upward variance to review all of the victims'  
6 statements, to read and review the transcript of the victims  
7 who testified here and understand and perhaps they will  
8 understand why this defendant deserves the harshest sentence  
9 that the law provides, and also to give strong consideration  
12:11:50 10 to the fact he engaged in the same activity while outside  
11 the country, completely undeterred, until the warrant from  
12 this country brought him to justice.

13 When he's released from prison, he will be placed  
14 on supervised release for a term of three years. That's the  
12:12:03 15 maximum on each count to run concurrently, not  
16 consecutively.

17 And within 72 hours of being released, he will be  
18 required to report in person to the district in which he's  
19 released.

12:12:15 20 There's a special assessment of \$800 which is due  
21 immediately.

22 I am required to put in place a restitution order.  
23 I don't want to mislead the victims in this case. There's  
24 not any likelihood at all in the absence of something almost  
12:12:29 25 miraculous that restitution will be had by any of the



1 victims. It's sad. I know some of them may have come here  
2 seeking that, but I will make a restitution order, and,  
3 again, with all due respect, I doubt that there will be  
4 restitution.

12:12:41 5 The defendant will pay 25 percent of his gross  
6 monthly income per month through the Federal Bureau of  
7 Prison's Inmate Responsibility Program while he's  
8 incarcerated. If restitution remains upon release from  
9 imprisonment, payment is to commence no later than 60 days  
12:12:57 10 after he's released. He will be required to set up a  
11 payment plan for restitution. It will be a minimum of his  
12 gross monthly income of 10 percent.

13 And nothing will prevent the government from  
14 executing upon any monies that they might discover before  
12:13:11 15 and after the date of this judgment, and I will waive  
16 interest given the extraordinary amount of restitution.

17 While the defendant's on supervised release, he  
18 cannot commit another federal, state or local crime, and  
19 cannot illegally possess a controlled substance.

12:13:24 20 He shall comply with the standard conditions  
21 adopted by this court. The following additional conditions  
22 will apply.

23 I will suspend mandatory drug testing. The  
24 defendant has no history of any substance abuse issues.

12:13:36 25 He cannot possess a firearm, destructive device or

1 dangerous weapon.

2 And I will order that he provide the probation  
3 office with access to any requested financial information,  
4 and when he's released, of course, he cannot incur any new  
12:13:52 5 credit charges, open additional lines of credit without the  
6 approval of the probation officer, and the probation  
7 officer.

8 He will cooperate in the collection of DNA.

9 And his financial windfall conditions will apply.

12:14:05 10 The defendant shall apply all monies received from income  
11 tax refunds, lottery winnings, judgments and/or any other  
12 anticipated or unexpected financial gains to his outstanding  
13 court ordered financial obligation.

14 I will also put in place a computer restriction.

12:14:20 15 His computer, any computer that he owns or possesses will be  
16 subject to monitoring by the probation staff and he will  
17 provide all necessary passwords and other pertinent  
18 information for purposes of making certain that that  
19 computer is monitored and reviewed, based upon the nature of  
12:14:37 20 his activities while he's in Peru, the use of the computer  
21 to defraud others, and, therefore, that restriction is  
22 clearly necessary and needed. Again, it's not a complete  
23 restriction, but it certainly will provide the probation  
24 office with the ability hopefully to monitor the defendant's  
12:14:53 25 activities.

1 His person, residence, place of business, computer  
2 or vehicle will be subject to a warrantless search conducted  
3 and controlled by his probation officer at a reasonable  
4 time, within a reasonable manner, based upon reasonable  
12:15:06 5 suspicion of contraband or evidence of a violation of a  
6 condition of his release. Failure to submit to a search may  
7 be grounds for revocation.

8 And the defendant shall inform any other residents  
9 that the premises may be subject to a search pursuant to  
12:15:20 10 this condition.

11 The defendant's been detained without bail. He's  
12 not a candidate for voluntary surrender based upon obviously  
13 the history. He will be detained.

14 I am constrained, I believe, based upon the  
12:15:34 15 information provided to me and part of the parties' plea  
16 agreement, I am constrained to recommend credit for time,  
17 but I will also indicate to the Bureau of Prisons that if  
18 they wish to do their own investigation of the matter,  
19 they're free to do that, of course. They know that as well.

12:15:50 20 But based upon the government's representation, it  
21 appears the defendant was held on our -- when I say our, the  
22 United States warrant and, therefore, more likely than not,  
23 is entitled to credit for time while he was held in Peru.

24 Under U.S. versus Bostic, any objections,  
12:16:07 25 corrections, any arguments that have not been previously

1 raised I can address?

2 MR. GEORGALIS: Judge, if I may. Judge, one other  
3 request the government would have is that the restitution  
4 order be made due and payable immediately as opposed to  
12:16:23 5 after his release to allow our financial litigation unit to  
6 pursue whatever funds there may be.

7 THE COURT: I will do so. And, Counsel, do you  
8 have -- I should state for the record a total amount of  
9 restitution due to the victims.

12:16:33 10 Do we have that number?

11 MR. GEORGALIS: The total restitution number due  
12 to the victims is \$42,499,302.82.

13 THE COURT: And that includes the credit, or that  
14 is the net sum after whatever monies was recovered by the  
12:16:54 15 receiver?

16 MR. GEORGALIS: It does, Judge. Thank you.

17 THE COURT: Counsel, do you have any objection to  
18 that number?

19 MR. WARD: No, sir.

12:16:59 20 THE COURT: Thank you. Now, under Bostic, any  
21 other objections the government wishes to raise?

22 MR. GEORGALIS: No other objections, Judge, but  
23 the government does pursuant to the plea agreement move to  
24 dismiss Counts 6 and 7.

12:17:09 25 THE COURT: They will be dismissed.

1           Before I address appellate rights, any objection  
2           under Bostic?

3           MR. WARD: No, sir.

4           THE COURT: Mr. Bartoli, you have a right to have  
12:17:17 5           an appeal to be filed of the court's sentence. I've imposed  
6           a sentence well above the parties' recommendation. As you  
7           are indigent without funds for the appointment of counsel --  
8           for counsel for attorneys, we will appoint an attorney to  
9           represent you.

12:17:30 10           More likely than not, I would ask Mr. Ward and Mr.  
11           Sammon to undertake that representation. They will advise  
12           you further. I will put up a written order and an opinion  
13           setting forth the sentence in this case, as well as the  
14           reasons for same.

12:17:42 15           And as your counsel will advise you, you will have  
16           approximately 14 days or 14 days thereafter to file a notice  
17           of appeal, and your counsel are very capable. I am sure  
18           they will perfect that appeal for you and then we will  
19           provide you the necessary transcript, what have you, for  
12:17:58 20           purposes of that appeal.

21           Do you understand that?

22           THE DEFENDANT: Yes.

23           THE COURT: Thank you.

24           Counsel, you can discuss it with him, and if you  
12:18:03 25           would like, we will appoint both of you for purposes of

1 appeal given the extensive record in the case.

2 MR. WARD: Thank you, Your Honor.

3 THE COURT: Anything else on behalf of the  
4 government?

12:18:12 5 MR. GEORGALIS: Nothing further, Judge.

6 THE COURT: Gentlemen?

7 MR. WARD: No, sir.

8 THE COURT: That concludes today's hearing. We'll  
9 stand adjourned. Thank you very much.

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C E R T I F I C A T E

I certify that the foregoing is a correct transcript  
from the record of proceedings in the above-entitled  
matter.

s/Lori A. Callahan  
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